

SUMMARY

In the Office Action dated April 13, 2006, claims 55-57, 59-67, 71-76, 78-80, 88-112, 115-124, 126-128, 132-137, 139-141, 145-156, 158-160, and 175-189 were rejected under 35 U.S.C. § 112, second paragraph as providing undue multiplicity. Upon entry of the present Amendment, claims 1-189 will have been canceled and claims 190-247 will have been added to be pending in the application. Since the Office Action of April 13, 2006 merely objected to the number of claims pending without applying art thereto, the claims from the Amendment of February 6, 2006 have not been examined for patentability. Further, the claims from the Amendment filed April 13, 2006 have not been examined in any manner by the USPTO. Although the present amendment cancels claims, these claims have not been canceled for any reason relating to patentability but rather as an expedient to advance prosecution. Applicants reserve the right to continue prosecution of the canceled claims in future applications. Claims 190-247 as added by the present Amendment define over prior art insect screens in fenestration units and methods of screening insects.

REMARKS

Interview Summaries

The Applicant thanks the Examiner for the telephone interview dated March 14, 2006 and for the telephone conference of May 31, 2006 where the term of art or trade term “insect screen” or “insect screening” was discussed. One of ordinary skill in the art recognizes that an “insect screen” is a screen that is defined by certain standards, such as industry standards, that make it appropriate for use as an insect screen. An Interview Summary, mailed June 8, 2006, expressed the position that screening such as sifting screens are capable of screening insects and that “insect” is a term of implied usage. Applicants aver however that “insect screen” is in fact a

term of art and that it is not appropriate to dissect a term of art into its constituent components as suggested by the official action for such an analysis. Applicants have provided additional support for “insect screen” being a term of art, including an expert report entitled “Rebuttal Expert Report of Laurence P. Armstrong” filed in an Information Disclosure Statement under separate cover, from the litigation involving the parent application. However, since the present claims include additional structural limitations not taught or suggested by the art, the present claims are allowable regardless of the nature of “insect screen.” Applicants reserve the right to discuss further the nature and character of “insect screen” and its status as a term of art.

Applicants are also providing in the IDS an expert report entitled “Rebuttal Expert Report of Prof. James R. Leger” (the “Leger report”). The Leger report details additional measurement results from screens tested during the litigation involving the parent application. However, none of the screens cited in the report anticipate or render obvious the currently pending claims. Specifically, the cited screens either are not insect screens, are not screens in fenestration units, are not screens spanning an opening in a building structure, fail to meet one or more of the claimed numerical limitations, fail to show the combination of claimed elements, fail to prove public use or sale in the United States prior to the priority date, and/or fail to show combinations of these and other claimed elements. Accordingly, the pending claims are allowable as written. If the Office would like additional information on any matter from the litigation, Applicants will strive to provide such requested information.

Election/Restriction Requirement:

Although an Election of Specie requirement was required for previously pending claims in this application, since the present claims are in allowable form as presented, election should not be required.

CONCLUSION

The prior art fails to teach or show insect screening in a fenestration unit or methods of screening insects, and fails to provide a teaching or suggestion to modify or combine any prior art to reach the claims. Accordingly, pending claims 190-247 are in allowable form and should be allowed. The Examiner is requested to contact Applicants' counsel at the telephone number specified below with any questions or comments regarding this application.

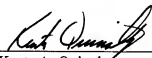
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees that may be required for the timely consideration of this Amendment under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account No. 09-0528.

Respectfully submitted,

Date:

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